

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2632

SPONSOR: Criminal Justice Committee and Senator Crist

SUBJECT: Juvenile Supervision/Detention Costs

DATE: March 31, 2004

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|----------------|------------|---------------|
| 1. | <u>Dugger</u> | <u>Cannon</u> | <u>CJ</u> | <u>Fav/CS</u> |
| 2. | _____ | _____ | <u>JU</u> | _____ |
| 3. | _____ | _____ | <u>ACJ</u> | _____ |
| 4. | _____ | _____ | <u>AP</u> | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |

I. Summary:

Committee Substitute for Senate Bill 2632 amends the statutes that provide for the imposition and collection of fees from parents and guardians of youth supervised by the Department of Juvenile Justice (DJJ). If a youth is in a residential program, the parents or guardians would be ordered to pay an amount of \$5.00 per day for each day the youth is in the DJJ's custody (same as current law). If the youth is at home and under supervision by the DJJ, the parents or guardians would be ordered to pay an amount of \$1.00 per day for each day the youth remains under supervision.

In addition, the bill provides additional enforcement mechanisms for collecting these required fees. The court would be required to issue income deduction orders against the parents or guardians when the court orders a parent or guardian to offset the cost of care. (The bill outlines due process procedures that must be followed during this process.)

This bill creates s. 985.2311 and amends ss. 985.215, 985.231, 985.233, and 322.058 of the Florida Statutes.

II. Present Situation:

The DJJ is required to charge parents or guardians fees for the cost of care and supervision for youth in the department's care and custody under ss. 985.215, 985.231, and 985.233, F.S. Judges must make specific findings about fee payments in the commitment and/or detention orders. The current fees for detention, commitment, and supervision are specified at \$5 per day. The court may reduce or waive the fee if it makes a finding of indigency or inability to pay the full cost of care. The court may order payment of \$2.00 per day that a youth is committed outside the home or \$1.00 per day if the youth is otherwise supervised.

The DJJ is required to report to the court any available information concerning the parent's or guardian's ability to pay these fees. The law requires a youth's parent or guardian to provide personal identification and financial information when the youth is taken into custody, released or delivered from custody, placed in any form of detention care or in a residential commitment facility in order to determine their ability to pay. The information must include name, address, social security number, date of birth, driver's license number and sufficient financial information for the department to determine the parent's or guardian's ability to pay.

Upon refusal to provide this information or the required financial information, the parent or guardian can be held in contempt of court. The clerk of the court is the depository for collecting these fees, retaining a service charge of 3 percent of the payment, not to be less than \$1.00 or more than \$5.00. Payments are submitted monthly by the clerk into the Grants and Donations Trust Fund.

The department has the discretion to enter into agreements with parents or guardians to establish a periodic payment plan, consistent with prevailing loan rates, when payment of these fees would create a hardship. The DJJ may also employ a collection agency to collect and manage the payment of unpaid and delinquent fees. According to the DJJ, the current enforcement mechanism for collecting fees is not adequate. In addition, it does not have sufficient authority to collect fees for supervision under *B.S. and D.L.S. v. State* 862 So.2d 15 (Fla.2nd DCA 2003).

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 2632 would amend the statutes that provide for the imposition and collection of fees from parents and guardians of youth supervised by the DJJ. If a youth is in a residential program, the parents or guardians would be ordered to pay an amount of \$5.00 per day for each day the youth is in the DJJ's custody (same as current law). If the youth is at home and under supervision by the DJJ, the parents or guardians would be ordered to pay an amount of \$1.00 per day for each day the youth remains under supervision.

The court would assess these fees during the detention or disposition hearing. If the court makes a finding that the parents or guardians of the youth are indigent or that paying the fees would cause significant financial hardship, the court would reduce or waive the fee (same as current law). The court could also waive the fee if it determines that the parent or guardian is the victim of the youth's delinquent act. They would also not be required to pay if the charges are dropped or the youth is found to be not delinquent.

In addition, the bill would provide additional enforcement mechanisms for collecting these required fees. The court would be required to issue income deduction orders against the parents or guardians when the court orders a parent or guardian to offset the cost of care. A payor (employer) who refuses to employ or takes disciplinary action against a parent or guardian because of an income deduction order is in violation of the legislation and must pay a civil penalty of \$250 for the first violation and \$500 for any subsequent violation.

The bill would outline specific due process procedures that must be followed while using this enforcement mechanism against the parents or guardians-service of process, proper notice, and a hearing to contest the court order.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

With the bill's increased collection mechanisms, more parents could be subjected to paying the required fees.

C. Government Sector Impact:

The DJJ states that the average daily population (ADP) is 23,691 for probation, 1,911 for post-commitment probation, and 2,529 for conditional release. Using the \$1 fee x 365 days x 28,131 ADP, the department anticipates possibly increasing billings by \$10,267,815, based on the supervision programs. However, the DJJ has many youth who are indigent or are foster children in the agency's care for whom the fee would be waived by the courts.

In FY 2002-03, the DJJ collected \$718,456 or 6 percent of actual billing for youth in residential commitment programs and in detention care, according to its finance and accounting records. Using the same 6 percent collection rate for the supervision fee rate, the department anticipates it could collect an additional \$616,069 in cost of care fees.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
